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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,668	04/27/2001	Hisakazu Kobayashi	2001_0512A	7703
513	7590	06/03/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			LEE, RICHARD J	
		ART UNIT		PAPER NUMBER
		2613		
DATE MAILED: 06/03/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/842,668	KOBAYASHI ET AL.
	<b>Examiner</b> Richard Lee	<b>Art Unit</b> 2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 May 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,7-15,17 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,7-15,17 and 21-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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1. The request filed on May 11, 2004 for a Request for Continued Examination (RCE) is acceptable and a RCE has been established. An action on the RCE follows.
2. Claims 1-3, 7, 8, and 21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For examples:

- (1) claim 1, line 7, "the audio data" shows no clear antecedent basis;
- (2) claims 1 and 21 are identical claims, with claim 21 therefore not further limiting from claim 1, and thus rendering the claims indefinite. Suggestion: cancel one of the claims;
- (3) claim 21, line 7, "the audio data" shows no clear antecedent basis; and
- (4) claim 23, line 4, "the moving image data" shows no clear antecedent basis.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe of record (6,392,692) in view of Raskin of record (3,668,526) and Ichino of record (5,440,351).

Monroe discloses a network communication techniques for security surveillance and safety system as shown in Figures 1, 2a, 2b, 3a, 3b, 4a, 4b, 6, 12a, 12b, 12c, and 13, 16, and substantially the same transmitter for transmitting at least one of a moving image and an audio signal to a communication terminal (see Figures 12a, 12b, 12c, 13, and 16) as claimed in claims

1, 21, and 22, comprising substantially the same moving image compressing coder (i.e., 402 of Figures 12b, 12c) for compressing and coding a moving image signal output from a moving image input unit (i.e., C1, 400 of Figures 12b, 12c); an audio compressing coder (408 of Figures 12b, 12c) for compressing and coding the audio signal; a radio transmitter unit (see column 11, lines 7-20, 80 of Figure 13) for transmitting the moving image signal compressed and coded in the moving image compressing coder, and the audio data compressed and coded in the audio compressing coder; an audio output unit (i.e., 240 of Figure 13) for outputting the audio signal; and an audio output instructing command receiver for receiving an audio output instructing command from the communication terminal (i.e., ground control tower 216 of Figure 16), wherein the audio output instructing unit controls the audio output unit according to the audio output instructing command received in the audio output instructing command receiver (i.e., communication terminal 216 is capable of communicating with personnel within the airplane via transceiver 76, and as such audio output instructions may be provided to the airplane from communication terminal 216 for the specific instructions such as the control of the audio output unit according to the audio output instructing command received). Monroe does not particularly disclose, though, the followings:

- (a) an audio output instructing unit for controlling the audio output unit to output the audio signal when a distance calculated based on a field strength of a radio wave transmitted from the communication terminal is shorter than a predetermined value and for controlling the radio transmitting unit to transmit the audio signal when the distance calculated based on the field strength is not shorter than the predetermined value as claimed in claims 1 and 21; and
- (b) a field strength detector for measuring the field strength of the radio wave transmitted from the communication terminal as claimed in claim 7 .

Regarding (a) and (b), it is however considered obvious that if the moving image and audio transmitter is close enough to the communication terminal, then only the speaker from the

moving image and audio transmitter unit is needed for communication between the two, and thus not requiring any radio communication. In any event, Raskin discloses a communication system as shown in Figure 1, and teaches the conventional use of a speaker 14 within police vehicle for audio communication to nearby people, while using radio communication (13 of Figure 1) for communicating with the dispatch center (see column 1, lines 24-38, column 2, lines 35-43). Further, Ichino discloses a television with user selectable radio sound, and teaches the conventional use of field strength detectors for measuring radio waves and the selection of audio based on such detected results (see column 2, lines 10-37). As such, it is considered obvious to provide such radio wave field strength detector of Ichino within the communication system of Raskin to control the selective output of an audio signal from either the audio output unit or the radio transmitting unit of Raskin. Specifically, audio from the speaker 14 and radio 13 of Raskin may obviously be selected based on a threshold (i.e., predetermined value) according to the radio wave strength of the radio 13, and wherein the distance is obtained based on a field strength of a radio wave transmitted from the communication terminal (i.e., the strength of the radio wave as determined will give an indication of the distance between the transmitter and the communication terminal). In view of the teachings of Ichino and Raskin, it is similarly considered obvious to provide the selection of audio signal from either the audio output unit (240 of Monroe) or the radio transmitter unit (80 of Monroe) based on a threshold (i.e., predetermined value) according to the radio wave strength as provided by Ichino within the modified system of Monroe. Therefore, it would have been obvious to one of ordinary skill in the art, having the Monroe, Raskin, and Ichino references in front of him/her and the general knowledge of audio communication techniques, would have had no difficulty in providing the selective audio transmission via radio or to an audio output unit such as a speaker depending on a distance between the transmitter and the communication terminal wherein the distance is obtained based on a field strength of a radio wave transmitted from the communication terminal as taught by

Raskin and Ichino for the transmitter system of Monroe for the same well known selective audio communication purposes as claimed.

5. Claims 2, 3, 8, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Monroe, Raskin, and Ichino as applied to claims 1, 7, 21, and 22 in the above paragraph (4), and further in view of Rostoker et al of record (5,793,416).

The combination of Monroe, Raskin, and Ichino discloses substantially the same transmitter as above, further including wherein the audio output instructing unit detects contact of the transmitter with the communication unit (i.e., as provided by radio field strength determined by Raskin and Ichino within the system of Monroe, column 1, lines 24-38, column 2, lines 35-43 of Raskin, column 2, lines 10-37 of Ichino).

The combination of Monroe, Raskin, and Ichino does not particularly disclose, though, wherein when the audio output instructing unit controls the audio output unit to output the audio signal, the audio compressing coder lowers a compression rate of the moving image compressing coder to transmit the moving image data as claimed in claims 2, 3, and 23. However, Rostoker et al discloses a wireless system for communication of audio, video and data signals over a narrow bandwidth as shown in Figures 1 and 4, and teaches the conventional control of a compression rate of moving image compression coders depending on audio selections (see column 4, lines 30-43). Therefore, it would have been obvious to one of ordinary skill in the art, having the Monroe, Raskin, Ichino, and Rostoker et al references in front of him/her and the general knowledge of variable video compression rate selections, would have had no difficulty in providing the lowering of the compression rate of moving image compressing coders as taught by Rostoker et al for the transmitter system of Monroe, Raskin, and Ichino for the same well known varying compression rate for video quality control purposes as claimed.

6. Claims 9-13, 17, and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Monroe, Raskin, and Ichino as applied to claims 1, 7, 21, and 22 in the above paragraph (4), and further in view of Strandwitz et al of record (6,522,352).

The combination of Monroe, Raskin, and Ichino discloses substantially the same audio transmitter as above, further including a portable display terminal (i.e., 18 of Figure 3a) for communicating with a communication terminal, and receiving at least one of moving image data and audio data, the portable display terminal comprising a radio receiving unit (i.e., 14 of Figure 3a and see column 11, lines 7-20, column 12, lines 41-67) for receiving compression coded moving image data and compression coded audio data (i.e., as provided to 212 of Figure 16, see column 22, lines 34-60, column 23, lines 15-32); a moving image decoder (i.e., 520 of Figure 3a) for decoding the compression coded moving image data received in the radio receiving unit; a display unit (i.e., 18 of Figure 3a and within 216 of Figure 16) for displaying an image according to the moving image data decoded by the moving image decoder; an audio output unit for issuing the audio signal (see column 23, lines 15-32); an audio output determining unit for determining and controlling whether or not to output the audio signal from the audio output unit, depending on a distance between the portable display terminal and the transmitter/communication terminal, wherein the distance is obtained based on a field strength of a radio wave transmitted from the communication terminal/portable display terminal/transmitter (i.e., as provided by Raskin and Ichino), wherein the audio output determining unit includes an audio output instructing command transmitter for transmitting an output instructing command to designate an output destination of the audio signal at the communication terminal, to the communication terminal (i.e., the operator has the capability to send the audio data to the audio output unit 240 of Figure 13 or to a ground station 18, see column 22, lines 34-60, column 23, lines 15-32); a wireless moving image and audio transmitting system for communicating information including at least one of moving image data and audio data (see Figure 13); the wireless transmitting system

comprising a transmitter (see columns 21-23); an audio output instructing command receiver for receiving an audio output instructing command from the portable display terminal (i.e., within ground control tower 216 of Figure 16), wherein the audio output instructing unit determines the selection according to the audio output instructing command received in the audio output instructing command receiver (i.e., communication terminal 216 is capable of communicating with personnel within the airplane via transceiver 76, and as such audio output instructions may be provided to the airplane from communication terminal 216 for the specific instructions such as the selection according to the audio output instructing command received); wherein the audio output determining unit of the portable display terminal comprises an audio output instructing command transmitter for transmitting an output instructing command to designate an output destination of the audio signal to the transmitter (i.e., the operation has the capability of two way communication with the terminal and the capability to send the audio data to the audio output unit 240 of Figure 13 or to a ground station 18, see column 22, lines 34-60, column 23, lines 15-32); and wherein the audio output determining unit is a changeover switch (see column 2, lines 10-37 of Ichino).

The combination of Monroe, Raskin, and Ichino does not particularly disclose, though, an audio decoder for decoding the compression coded audio data received in the radio receiving unit as an audio signal and an audio output unit for issuing the audio signal decoded by the audio decoder as claimed in claims 9, 13, and 25. Even without specific disclosure, it is considered obvious that the complementary audio decoder to the audio compressor 408 of Figure 12c of Monroe must be provided in the receiver side as shown in Figure 16 in order to properly decode the audio signal for hearing. In any event, Strandwitz et al teaches the conventional audio decoders (i.e., 220 of Figure 2) for decoding audio signals. Therefore, it would have been obvious to one of ordinary skill in the art, having the Monroe, Raskin, Ichino, and Strandwitz et al references in front of him/her and the general knowledge of audio encoder/decoders, would

have had no difficulty in providing the audio decoder as taught by Strandwitz et al for the ground station system as shown in Figure 16 of Monroe for the same well known decoding of received audio data and issuing of the audio signal decoded by the audio decoder to the audio output unit purposes as claimed.

7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Monroe, Raskin, Ichino, and Strandwitz et al as applied to claims 1, 7, 9-13, 17, 21, 22, and 25-29 in the above paragraphs (4) and (6), and further in view of Rostoker et al (5,793,416).

The combination of Monroe, Raskin, Ichino, and Strandwitz et al discloses substantially the same transmitter as above, further including wherein the audio output instructing unit detects contact of the transmitter with the portable display terminal (i.e., the radio field strength determination as provided by Raskin and Ichino within the system of Monroe, see column 1, lines 24-38, column 2, lines 35-43 of Raskin, column 2, lines 10-37 of Ichino).

The combination of Monroe, Raskin, Ichino, and Strandwitz et al does not particularly disclose, though, wherein when the audio output instructing unit controls the audio output unit to output the audio signal, the audio compressing coder lowers a compression rate of the moving image compression coder to transmit the moving image data as claimed in claims 14 and 15. However, Rostoker et al discloses a wireless system for communication of audio, video and data signals over a narrow bandwidth as shown in Figures 1 and 4, and teaches the conventional controllings of a compression rate of moving image compression coders depending on audio selections (see column 4, lines 30-43). Therefore, it would have been obvious to one of ordinary skill in the art, having the Monroe, Raskin, Ichino, Strandwitz et al, and Rostoker et al references in front of him/her and the general knowledge of variable video compression rate selections, would have had no difficulty in providing the lowering of the compression rate of moving image compressing coders as taught by Rostoker et al for the transmitter system of Monroe, Raskin,

Ichino, and Strandwitz et al for the same well known varying compression rate for video quality control purposes as claimed.

8. Regarding the applicants' arguments at pages 11-12 of the amendment filed April 6, 2004 concerning in general the newly added limitations to claim 1, and particularly that Monroe fails to disclose or suggest the audio output instructing unit for controlling the speaker 240 to output an audio signal when a distance calculated based on a field strength of a radio wave transmitted from the control tower 2216 is shorter than a predetermined value and for controlling the radio 80 or the LAN transceiver 280 to transmit the audio signal when the distance calculated based on the field strength is not shorter than the predetermined value, the Examiner respectfully disagrees. It is submitted that the critical issue at hand is that Ichino teaches the particular use of field strength detectors for measuring radio waves and the selection of audio based on such detected results (see column 2, lines 10-37). And the selection of audio within Ichino is obviously based on some sort of threshold value associated with the measured radio field strengths. It is further submitted that it is considered obvious provide such radio wave field strength detector of Ichino within the communication system of Raskin to control the selective output of an audio signal from either the audio output unit or the radio transmitting unit of Raskin. In view of the combined teachings of Ichino and Raskin, it is similarly considered obvious to provide the selection of audio signal from either the audio output unit (240 of Monroe) or the radio transmitter unit (80 of Monroe) based on a threshold (i.e., predetermined value) according to the radio wave strength within the modified system of Monroe.

The applicants' at pages 12-13 of the amendment filed April 6, 2004 questioned the Examiner's comments in section 7 of the previous Office Action, and particularly that the applicants are unclear what section of Monroe the Examiner is relying on in making the statement that it is certain that the speaker 240 is mounted to the outside of the commercial airplane 10 of Monroe, and therefore it would be obvious to selectively determine to transmit

audio data via the speaker 240 or the radio 80 or and LAN transceiver 280 to the ground control tower 216. The applicants further argued that the display monitor 54 as shown in Figure 7 is illustrated as being in the cockpit 21, therefore appearing unlikely that the visual and textual data would be available via the display monitor 54 located in the cockpit 21 and the audio would be available via the speaker 240 located outside the airplane as suggested by the comments. Not to confuse the issues at hand but the Examiner is unsure what correlation the applicants are making between the display monitor 54 and the audio availability via the speaker 240. It is clear from Figure 13 of the drawings that the display monitor 54 and speaker 240 provide separate operations. The applicants' attention are directed to column 22, lines 34-60 of Monroe for the particular teachings that "audio signal is output at 237 to an audio output system such as amplified speaker 240" and that "selected portions of the systems data on the aircraft may be down-linked to the ground or base station 18". It is considered obvious from such teachings of Monroe that the speaker 240 is mounted to the outside of the commercial airplane 10 and such speaker 240 may certainly be used as a communication between the crew inside the airplane and the ground control tower. Even if such exterior mounted speaker system were not shown in Monroe, the outside speaker 14 of Raskin may certainly be provided for the airplane of Monroe, thereby rendering the claimed invention obvious.

Regarding the applicants' arguments at pages 13-14 of the amendment filed April 6, 2004 concerning in general that "... the system of Raskin discloses the police vehicle 12 has the outside speaker 14 and the transceiver 25. However, the transceiver 25 appears to be used to communicate between the police station 10 and the remote transmitter 21, while the outside speaker 14 appears to be used by the officer to communicate with other people in the street. As a result, it is apparent that Raskin also fails to disclose or suggest the audio output instructing unit for controlling ... since the transceiver 25 is used to communicate with the police station 10 and the speaker is used to communicate with people on the street ...", the Examiner wants to firstly

point out that: One cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981). Though Raskin may teach various other communication features, Raskin nevertheless teaches the particular use of a speaker 14 within the police vehicle for communication between the officer and nearby people, and radio communication (13 of Figure 1) for communicating with the dispatch center. And it is submitted that such teachings of Raskin may certainly be combined with Monroe and Ichino, thereby rendering obvious the claimed invention as discussed in the above.

Regarding the applicants' arguments at page 14 of the amendment filed April 6, 2004 concerning in general that "... In order for the television of Ichino to correspond to the audio output instructing unit of claim 1, the television would have to measure the field strength of either the television audio signal or the FM simulcast signal to determine a distance and based on that distance, determine whether to output the audio to its speaker or transmit the audio. Since it is apparent that the television is not capable of transmitting and only determines which of two audio signals to output via its speakers, the television in no way corresponds the audio output instructing unit of claim 1", the Examiner wants to point out that the critical issue at hand is that Ichino teaches the use of field strength detectors for measuring radio waves and the selection of audio based on such detected results (see column 2, lines 10-37). And, it is considered obvious to provide the field strength detector of Ichino within Monroe for the selection of audio signal from either the audio output unit (240 of Monroe) or the radio transmitter unit (80 of Monroe) based on a threshold (i.e., predetermined value) according to the radio wave strength as provided by Ichino. It is further considered obvious that the strength of the radio waves as provided by Ichino will give an indication of the distance between the transmitter and the communication terminal within Monroe. It is therefore submitted that the combined Monroe, Raskin, and Ichino references teaches substantially the same if not the same audio output instructing unit for

controlling the audio output unit to output the audio signal when a distance calculated based on a field strength of a radio wave transmitted from the communication terminal is shorter than a predetermined value and for controlling the radio transmitting unit to transmit the audio signal when the distance calculated based on the field strength is not shorter than the predetermined value as claimed.

Regarding the applicants' arguments at pages 15-16 of the amendment filed April 6, 2004 concerning in general the Rostoker and Strandwitz references, and claims 1-3, 7-15, 17, and 21-29 being patentable over the combination of references, the Examiner wants to point out that such arguments have been addressed in the above.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
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or faxed to:

(703) 872-9314, (for formal communications intended for entry)

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m., with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.



A handwritten signature in black ink, appearing to read "J. Lee". Below the signature, the text "RICHARD LEE" is printed in a bold, sans-serif font, followed by "PRIMARY EXAMINER" in a smaller, all-caps font.

Richard Lee/rl



A handwritten signature in black ink, appearing to read "J. Lee".

5/25/04